

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ONSRI CLARK,

Plaintiff,

vs.

SARPY COUNTY,

Defendant.

8:17CV405

ORDER

This matter is before the court on the findings and recommendation of the magistrate judge, [Filing No. 20](#). Plaintiff filed her complaint alleging that defendant discriminated against her in violation of the American with Disabilities Act. Defendant filed a motion to dismiss the action. [Filing No. 10](#). The magistrate judge concluded that (1) the motion to dismiss should be granted in part and denied in part and (2) Counts 2, 4, 6, and 8 of plaintiff's complaint should be dismissed as untimely for failure to timely file with the Equal Opportunity Commission. The parties have not filed any objections to the findings and recommendation.

A district court reviews de novo those portions of a magistrate's order that are objected to by a party. [Grinder v. Gammon, 73 F.3d 793, 792 \(8th Cir. 1996\)](#). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." [28 U.S.C. § 636\(b\)\(1\)](#). A district court may reconsider a magistrate judge's ruling where it has been shown that the ruling is clearly erroneous or contrary to law. [Ferguson v. United States, 484 F.3d 1068, 1076 \(8th Cir. 2007\)](#) (citing [28 U.S.C. § 636\(b\)\(1\)\(A\) \(2006\)](#)).

The court has carefully reviewed the record and finds that the magistrate judge's recommendation should be adopted in all respects. First, the defendant clearly received actual notice of this action, and the magistrate judge correctly analyzed the service of process issues. Second, the plaintiff did not file the state law claims within 90-days under the Nebraska Fair Employment Practices Act, pursuant to [Neb. Rev. Stat. § 48-1120.01](#), and thus her state law claims are untimely. Accordingly, the court finds the magistrate judge's findings and recommendation should be adopted in its entirety.

THEREFORE, IT IS ORDERED that:

1. The findings and recommendation of the magistrate judge, [Filing No. 20](#), is adopted in its entirety; and
2. The motion to dismiss, [Filing No. 10](#), is granted in part and denied in part as set forth herein and in [Filing No. 20](#).

Dated this 6th day of July, 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge